Senate

General Assembly **File No. 690**

February Session, 2016 Substitute Senate Bill No. 414

Senate, April 21, 2016

The Committee on Finance, Revenue and Bonding reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE TAX ON COLLEGE PROPERTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subdivision (8) of section 12-81 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016, and applicable to assessment years commencing on or after October 1, 2016*):

(8) (A) The funds and estate which have been or may be granted, provided by the state, or given by any person or persons to the Trustees of the Berkeley Divinity School, the board of trustees of Connecticut College for Women, the Hartford Seminary Foundation, Sheffield Scientific School, Trinity College, Wesleyan University or The President and Fellows of Yale College in New Haven, and by them respectively invested and held for the use of such institutions, with the income thereof. **[**; provided none of said corporations shall hold in this state**]**

(B) Such exemption shall not apply to any (i) real estate [free from taxation] affording an annual income of more than six thousand dollars; or (ii) real estate where such institution holds real estate consisting of land, buildings and equipment valuing more than two billion dollars in the aggregate and the activities on such real estate afford the institution an annual income of more than six thousand dollars. Such exemption shall not apply to any real estate which said Trustees of the Berkeley Divinity School own, control or hold in trust, and which is situated in the city of Middletown. For the purposes of this subdivision, "activities" means (I) rents or other payments for the use of all or any part of real estate exempt from taxation pursuant to subparagraph (A) of this subdivision or any fixtures or equipment permanently installed thereon, received or due from any for-profit entity, but not including individuals for personal use; (II) fees collected for admission or use of any sports or entertainment facility located on such real estate, except for fees collected for admission or use from faculty, employees or enrolled students, or events in which substantially all of the athletes or performers are faculty or enrolled students; (III) fees, charges or royalties for any goods designed, produced, manufactured or generated on all or any part of such real estate, provided such goods are for sale to the public and to for-profit entities; and (IV) fees or charges for any services rendered on, or from, all or any part, of such real estate to the public or any for-profit entity; and "for-profit entity" means a corporation, partnership, joint venture, sole proprietorship or any other business entity.

(C) No other provision of this section concerning exemption of property used for educational purposes shall be construed to affect any provision of this subdivision;

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2016, and applicable to assessment years commencing on or after October 1, 2016*	12-81(8)

Statement of Legislative Commissioners:

In Section 1(B), the existing word "exemption" was restored to avoid repetition, "subparagraph (A) of this subdivision" was substituted for "subsection (a) of this section" for accuracy, and "this subdivision" was substituted for "this section" for accuracy.

FIN *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 17 $	FY 18 $	The Out Years
Policy & Mgmt., Off.	GF - Potential Savings	None	None	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 17 $	FY 18 $
Various Municipalities	Revenue Gain	None	Potential Significant

Explanation

The bill requires private colleges with real estate valued at more than $2 billion to pay taxes on certain property. Yale University is the only private college in the state impacted by the bill. Depending on what properties are impacted, the potential net revenue gain to municipalities where such property is located is significant.

On the 2011 Grand List, Yale owned property in 12 municipalities valued at approximately $2.5 billion. Yale would have paid $65.2 million in taxes to these municipalities in FY 13, if it were not exempt from taxation (of this amount, $62.8 million would have been paid to New Haven). It is not known, however, how much of this payment would have been for properties that are impacted by the bill.

The revenue gain to any municipality is partially offset by a loss in College & Hospital PILOT funding in towns with properties that are impacted by the bill. Correspondingly, there is a savings to the Office of Policy and Management to fully fund the grant. As the grant is prorated in years when it is not fully funded, any reduction in grant funding to towns impacted by the bill would result in an increase in grant funding to other towns that receive College & Hospital PILOT grants. Any impact on PILOT funds would not occur until FY 19, due to the timing of the bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to changes in municipal mill rates and grand lists.

OLR Bill Analysis
sSB 414

AN ACT CONCERNING THE TAX ON COLLEGE PROPERTY.

SUMMARY:

This bill specifies conditions under which real estate owned by certain colleges and universities is subject to the property tax. Current law exempts their real estate, except that which annually generates income over $6,000 (CGS § 12-81(8)). The Connecticut Supreme Court has ruled that this income threshold applies only to real estate that generates income without serving any educational purpose, not to real estate that serves such a purpose, regardless of the amount of income it generates (see BACKGROUND).

The exemption explicitly applies to the funds and real estate owned by Connecticut College for Women; Hartford Seminary Foundation; Trinity College; Wesleyan University; Yale College; and Berkeley Divinity School and Sheffield Scientific School, which are part of Yale (i.e., selected institutions). The exemption is included in Yale University's special act charter and confirmed in Article Eighth of the Connecticut Constitution (see COMMENT).

The bill extends the $6,000 income threshold to property used for educational purposes if:

1. total value of the institution's land, buildings, and equipment exceeds $2 billion and

2. specified activities, such as admission charges to concerts and sporting events, generate the income.

The property owned by the state's other private colleges and universities is exempt from the property tax under the statute that

broadly exempts from that tax land and buildings owned by nonprofit organizations and used exclusively for scientific, education, literary, historical, and charitable purposes or for preserving open space land (CGS § 12-81(7)).

EFFECTIVE DATE: October 1, 2016 and applicable to assessment years beginning on or after that date.

INCOME THAT COUNTS TOWARD THE THRESHOLD

The law sets a $6,000 threshold for determining if a specific property owned by a selected institution is subject to the property tax. The Connecticut Supreme Court ruled that this threshold applies only to a property that generates over $6,000 in income without serving any educational purpose. The bill extends this threshold to a property used from educational purposes if it generates income from the following activities:

1. rents or fees for-profit entities, but not individuals, pay for using the property or any fixtures or equipment permanently installed on it;

2. fees charged for entering or using a sports or entertainment facility located on the institution's property except those charged to (a) faculty, employees, or enrolled students or (b) people attending a sporting or entertainment event in which all of the athletes or performers are faculty or enrolled students;

3. fees, charges, or royalties the public or for-profit entities pay for goods designed, produced, manufactured, or generated on all or any part of the property; and

4. fees or charges the public or for-profit entities pay for services rendered on or from the property.

Under the bill, for-profit entities are corporations, partnerships, joint ventures, sole proprietorships, and other business entities.

BACKGROUND

Related Cases

In its 1899 decision overruling New Haven's attempt to impose the property tax on Yale dormitories, dining hall, and other property, the Connecticut Supreme Court stated that the real estate a college or university uses for educational purposes is removed from taxation, regardless of the amount of income it generates, and that the $6,000 income threshold applies to "productive property." The threshold "qualifies this exemption only for the purpose of imposing a limited restraint on the mode of investment. It is not an absolute limitation to the holding of real estate, but it is a provision which makes it the interest of the college to itself limit its holding" (*Yale University v. Town of New Haven*, 71 Conn. 316).

In 2006, the Connecticut Superior Court cited this decision when it overruled New London's attempt to tax Connecticut College's ice skating facility, which the college occasionally made available to the public and local community groups and programs. The court reasoned that the "test of taxability under CGS § 12-81 (8) and whether the property is within the [$6,000] proviso is whether the occupancy or use of it promotes the educational interests of the school or whether it has merely established a commercial relationship." In applying that test, the court ruled that the facility's incidental use by outside groups does not revoke the facility's tax-exempt status (*Connecticut College v. City of New London* 41 Conn. L. Rptr. 635).

COMMENT

Conflict between Statutory and Special Act Property Tax Exemptions for Certain Colleges and Universities

The bill limits the statutory tax exemption for certain educational institutions, but does not correspondingly limit parallel tax exemptions in their special act charters for Connecticut College for Women; Trinity College; Wesleyan University; Yale College; and Berkeley Divinity School and Sheffield Scientific School, which are part of Yale. Yale's charter is confirmed in the state constitution (Article Eighth, § 3).

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable				
Yea	28	Nay	22	(04/07/2016)